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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/985,793	11/06/2001	Masanori Nakamura	040679-1390	4343

22428 7590 05/07/2003

FOLEY AND LARDNER  
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WASHINGTON, DC 20007

EXAMINER

WRIGHT, WILLIAM G

ART UNIT

PAPER NUMBER

1754

DATE MAILED: 05/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/985,793	NAKAMURA ET AL.	
-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -- Period for Reply	Examiner	Art Unit	
	William G. Wright SR.	1754	
<p>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</p> <ul style="list-style-type: none"> <li>- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</li> </ul>			
<b>Status</b> <p>1)<input type="checkbox"/> Responsive to communication(s) filed on _____.</p> <p>2a)<input type="checkbox"/> This action is FINAL.                            2b)<input checked="" type="checkbox"/> This action is non-final.</p> <p>3)<input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11, 453 O.G. 213.</p>			
<b>Disposition of Claims</b> <p>4)<input checked="" type="checkbox"/> Claim(s) <u>1-11</u> is/are pending in the application.</p> <p>4a) Of the above claim(s) <u>9-11</u> is/are withdrawn from consideration.</p> <p>5)<input type="checkbox"/> Claim(s) _____ is/are allowed.</p> <p>6)<input checked="" type="checkbox"/> Claim(s) <u>1-8</u> is/are rejected.</p> <p>7)<input type="checkbox"/> Claim(s) _____ is/are objected to.</p> <p>8)<input checked="" type="checkbox"/> Claim(s) <u>1-11</u> are subject to restriction and/or election requirement.</p>			
<b>Application Papers</b> <p>9)<input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10)<input type="checkbox"/> The drawing(s) filed on _____ is/are: a)<input type="checkbox"/> accepted or b)<input type="checkbox"/> objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).</p> <p>11)<input type="checkbox"/> The proposed drawing correction filed on _____ is: a)<input type="checkbox"/> approved b)<input type="checkbox"/> disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.</p> <p>12)<input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p>			
<b>Priority under 35 U.S.C. §§ 119 and 120</b> <p>13)<input checked="" type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</p> <p>a)<input checked="" type="checkbox"/> All    b)<input type="checkbox"/> Some * c)<input type="checkbox"/> None of:</p> <p>1.<input checked="" type="checkbox"/> Certified copies of the priority documents have been received.</p> <p>2.<input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.</p> <p>3.<input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</p> <p>* See the attached detailed Office action for a list of the certified copies not received.</p> <p>14)<input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).</p> <p>a)<input type="checkbox"/> The translation of the foreign language provisional application has been received.</p> <p>15)<input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.</p>			
<b>Attachment(s)</b> <p>1)<input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3)<input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2,4</u>.</p> <p>4)<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____.</p> <p>5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6)<input type="checkbox"/> Other: _____.</p>			

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Applicant's election of Group I, claims 1-8 in Paper No. 6 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 are rejected under 35 U.S.C. § 102(b) as being anticipated by Hayashi et al. '580 or Sung '723 or Sung et al. '507 or Sung et al. '298 or Chen et al. WO 95/35152.

Note the claims of each reference.

Claims 1-8 are rejected under 35 U.S.C. § 102(b) as being anticipated by Ihara et al. '320.

Note the claims of the reference.

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the

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time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. § 103(c) and potential 35 U.S.C. § 102(f) or (g) prior art under 35 U.S.C. § 103(a).

Claims 1-8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Blanchard et al. '419 in view of Sung '723.

Blanchard teaches a gas treatment catalyst on an impregnated support to have layered structure with the instant claimed active catalytic elements. Note the teachings in the claims for the disclosures and the teaching that rhodium is found in the second catalytically active phase.

Blanchard does not teach the use of alkali metal or alkaline earth metal in the catalyst composition.

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The supporting reference to Sung teaches in the claims 12, 13 and 14 the use of alkaline earth metals in the instant type of catalyst composition.

It would be obvious to combine the teachings of the references since both teach the same catalytic composition being used for the same utility, gas treatment. The instant claimed invention is obvious from the combined teachings of these references.

Claims 1-8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Mussmann et al. '140 in view of Sung et al. '298.

Mussmann teaches the use of noble metals on alumina in a layered gas treatment catalyst. The second layer is taught to show platinum and rhodium in claim 9.

Mussmann fails to teach the specific use of alkali and alkaline earth metals with this type catalyst.

The supporting reference to Sung et al. teaches the use of alkaline earth metals in the instant type catalyst at claim 25.

The references teach the instant claimed invention to be obvious as both are to the same general type of catalyst with the same utility. Note the disclosures and the claims of both references.

Claims 1-8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Chen '745 09/834,504.

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Chen teaches a layered gas treatment catalyst composition using alumina, noble metals, rare earth, alkali metals and alkaline earth metals. Claims 44 and 86 each teach the specific use of a second platinum group metal. The second platinum group metal is listed in the claims and includes rhodium.

Chen teaches all of the main claimed features of the instant claims, thus the reference is relied on alone for this obviousness rejection.

Chen teaching all of the main instant claimed features, the instant claimed invention is obvious from the applied teachings of Chen. These teachings are found in the claims of Chen, to show the instant claimed invention to be obvious.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William G. Wright, Sr. whose telephone number is (703) 305-7792. The examiner can normally be reached on Monday through Thursday from 6:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can be reached on (703) 308-3837. The fax phone number for the organization where this application or proceeding is assigned are (703) 872-9310 for the regular communications and (703) 872-9311 for after final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1495.

*WGW*  
W. G. Wright, Sr.:cdc

April 30, 2003

*LBn*  
STEVEN BOS  
PRIMARY EXAMINER  
GROUP 1100